

## EUROPEAN HUMAN RIGHTS OFFICE CHURCH OF SCIENTOLOGY INTERNATIONAL

OSCE Supplementary Human Dimension Meeting: Freedom of Religion or Belief

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### **Religious Discrimination in France: 2009**

On 19 September 2008, Prime Minister Fillon appointed Mr. Georges Fenech, former Magistrate and suspended Member of Parliament, as President of MIVILUDES (the Inter-Ministerial Mission of Vigilance to Fight against Sectarian Drifts). MIVILUDES is an inter-ministerial government entity under the Prime Minister tasked to collect information on religious movements and inform the public about the "risks of sectarian deviances". MIVILUDES is composed of a President, a Secretary General with a task force of twelve officials assigned from government ministries, an Executive Committee composed of 18 government officials from nine ministries, and an Advisory Council composed of eight members of Parliament, eight associations, and 14 "experts".

Mr. Fenech assumed his position as President of MIVILUDES on 1 October, 2008. This appointment is of great concern to minority religious organizations in France. Not only is Mr. Fenech unfit for such a high level government appointment due to his controversial background, which includes pending penal proceedings<sup>1</sup> and suspension from Parliament, Mr. Fenech has also exhibited a complete lack of objectivity and neutrality on the issues of religious tolerance and religious freedom. His appointment as President has resulted in policies, statements and activities from MIVILUDES that represent a backward step for religious freedom and a return to religious repression of minorities in France.

### **Repressive Recommended Measures Contrary to Fundamental Human Rights**

By way of background, a few days after his Parliamentary mandate was cancelled for violating election laws, Mr. Fenech was appointed in April 2008 by the Prime

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<sup>1</sup> On 11 February 2009, the Procurator of the Republic demanded a suspended six-month prison term for Mr. Fenech for his alleged role in the "Angola-gate". Mr. Fenech was indicted for accepting a check of 100,000 Francs (15,000 EUR) from the company Brenco whose director, Pierre Falcone, was indicted for illegal sales of weapons to Angola. He was then the President of APM (Association Professionnelle des Magistrats). Sentence will be pronounced on 27 October 2009.

Minister to conduct a study and evaluation of the Judiciary to ensure that it is set up to "fight more efficiently" against "sectarian abuses". The Report, presented to the Prime Minister in September 2008, advocates a series of draconian measures to "fight" targeted faiths in the Courts. For example:

- The Report recommends having Guardianship Judges intervene at the request of third parties or families in order to place the "*consenting victims*" under guardianship and a higher sensitization of Guardianship Judges to "sectarian drifts".
- The Report recommends that, during judicial investigations, a psychiatric examination should occur to confirm if the adherence to the religious minority group constitutes a state of subjection and that, during custody, a special support be organized with a psychologist and anti-sect associations as "*followers who are not conscious of living in a situation of dependency*" are "*susceptible of strong emotional reactions at the time of their arrest and in the following hours*".
- The Report recommends the creation of "Cells of mobile intervention on sectarian subjection" (Cellules d'Intervention Mobile sur l'Emprise Sectaire or CIMES) composed of a psychologist expert in "sectarian" matters and anti-sect associations to carry out these "interventions" during police operations and custody, concluding that "Such a cell which relies to date on the sole initiative of dedicated professionals could be very usefully turned into a permanent institution under either the Ministry of Justice or the MIVILUDES".
- The Report recommends that a program on "sectarian drifts" be included in the training of psychiatrist experts before the Courts to advise Magistrates on identifying the criteria of "sectarian drifts" such as "mental destabilization".

Many of the recommendations in the Report stem from the premise that the doctrines and beliefs of religions derogatorily referred to as "movements of sectarian character" are inherently dangerous and not entitled to be treated like other religions. The Report champions the theory that *all members* of these minority religious movements are victims.

For example, characterizing consenting adults who choose to be members of minority faith communities as "*happy slaves*" who are "*not yet conscious of being victims*" (Report at 42) exposes a bias against the beliefs of targeted religions that cannot be countenanced with France's duty to remain neutral, objective and impartial on matters relating to religion.

According to Mr. Fenech's repressive Report, one issue at stake is to "protect" children from their parents' beliefs. Such a backwards approach, and the recommendations that flow from that approach, constitutes a clear violation of the right of parents to educate their children according to their own beliefs guaranteed by international human rights treaties that France has signed and ratified, including

Article 2 of Protocol 1 of the European Convention on Human Rights, which states that:

*"The State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions".*

These recommendations regarding children who have parents in minority faiths are especially egregious as the United Nations Rapporteur on Freedom of Religion or Belief published a report in March 2006 regarding her visit to France in which she determined that the divisive policies adopted by the government at that time has resulted in " *the public condemnation of some of these groups, as well as the stigmatization of their members, which has led to certain forms of discrimination, in particular vis-à-vis their children*".

Rather than attempt to repair these human rights shortcomings identified by the UN Religious Freedom Rapporteur, the foremost UN expert on international human rights law and religious freedom, MIVILUDES under Mr. Fenech's leadership, has instead attempted to compound the problem of religious intolerance directed at children of minority faiths by advocating draconian laws and "awareness campaigns" designed to:

- Take custody away from a parent or parents of children of minority faiths simply due to their religious association and belief;
- Stigmatize and marginalize such children in public educational institutions;
- Refuse to respect the fundamental human right of parents to raise their children in accordance with their own religious beliefs;
- Bias court officials against members of minority faiths;
- Stigmatize hundreds of thousands of law abiding French citizens due to their personal religious beliefs and religious association with faiths denigrated as "sects"; and
- Expand the highly controversial and internationally criticized About-Picard law through further repressive legislation.

Despite Mr. Fenech's protests to the contrary, not only purported "sectarian abuses" but *beliefs themselves* are targeted for repression. For example, the Report quotes psychologist Mrs Sonya Jougla with approval:

*"Until today, the children who are victims of sects remain the forgotten of society and of professionals of childhood in danger; maybe because it is even more difficult to protect a child from his parents' beliefs than from their beating or their incestuous sexuality; maybe also because the duress that the parents impose on their child by immersing him into a sect is perfectly legal"* (Report at 30).

This statement is very clear: the issue at stake is to protect children from their parents' beliefs. Such an approach, and the implementation of recommendations that flow from that approach, constitutes a clear violation of the right of parents to educate their children according to their own beliefs guaranteed by the International Covenant on Civil and Political Rights and the European Convention of Human Rights.

The French State simply has no business intruding into the sphere of religious convictions to "fight against" beliefs it does not approve of, yet that is what Mr. Fenech advocates.

### **Renewed Call for a "Sect List" and Implementation of a "Reference List"**

In February 2009, Mr. Fenech called on the government to re-institute a so-called official "sect list" in France similar to the infamous blacklist established by a Parliamentary Commission in 1995.

Mr. Fenech publicly lobbied for this blacklist even though the previous "sect-list" had been officially withdrawn in a Circular letter by then Prime Minister Raffarin in May 2005 on the grounds that it operated as a blacklist, because of the overwhelming prejudice it caused to organizations on the list and due to its misuse by MIVILUDES officials to justify harassment and persecution of religious minorities. As reported in *Le Parisien* on 13 February 2009:

"The policy of Michèle Alliot-Marie in this field is in conformity with the 2005 circular letter released by Jean-Pierre Raffarin (2) which was rejecting lists of movements likely to have cultish misbehaviors and was following another line of thought: to qualify in legal terms facts that could be viewed as criminal offences. In her letter addressed to François Fillon, the Minister of the Interior expresses her "surprise" about the policy change of Miviludes, "without any previous inter-ministerial dialogue" and severely points at the move: infringement of freedom of conscience, weakening of France on the European and international scene, repeated condemnations of its intransigence on religious freedom issues by the annual report of the US Department of State but also by the OSCE (Organization for Security and Cooperation in Europe)".

There is no question that Mr. Fenech's incendiary statements to reinstitute a blacklist are designed to incite religious intolerance in France. The previous religious black list represented dark days for religious freedom in France. Human Rights groups, interfaith groups, NGOs, officials from intergovernmental bodies such as the UN, Council of Europe and OSCE, the United States State Department in its human rights reports and other governments spoke out against religious repression in France and France's reputation as a champion of human rights was undermined. Initiation of another blacklist would constitute a giant step backward for religious freedom in France.

Under the previous blacklist, 173 movements and hundreds of thousands of French citizens were officially transformed into second class citizens who were denied basic human and civil rights and "fought against". Targeted groups were routinely subjected to never-ending investigations, audits and inspections. Municipal authorities refused to rent to blacklisted movements. Custodial rights of parents were challenged in court on the grounds that a parent belonged to a religious group on the blacklist. The government provided information to the public regarding businesses it identified as employing individuals who associated with religious organizations on the blacklist, falsely accusing these businesses of "infiltrating" the French economy by conducting legitimate business in France. Individuals were fired from jobs or not hired due to their religious associations. Ministries cancelled contracts with reputable business if it was discovered principals or employees were members of a religious organization on the "sect list."

As the UN Rapporteur on Freedom of Religion or Belief noted in her report on her September 2005 Mission to France (E/CN.4/2006/5/Add.4):

"The debate on this matter and the different measures that were taken at the governmental and parliamentary level in the second part of the 1990s undermined the right to freedom of religion or belief and raised serious concerns about religious intolerance. In particular, the establishment of a list, as well as the awareness-raising policies that were carried out, raised serious concerns in terms of freedom of religion or belief".

Mr. Fenech's call for a new blacklist in contravention of fundamental human rights provides further proof that he is unfit to hold high office in France. Instead of promoting religious pluralism and tolerance as required by the Helsinki Accords, Mr. Fenech incites religious intolerance towards hundreds of thousands of French citizens associated with religious groups he denigrates as targeted "sects".

In July 2009, the Prime Minister rejected this call for a new blacklist. However, MIVILUDES determined to go forward with what it refers to as a "reference list" (apparently targeting over 200 religious groups) that it promises not to make "public" yet intends to make available to Judges, lawyers, doctors and other "professionals" –

a draconian weapon designed to bias them against targeted minority faiths.<sup>2</sup>

This system of reference will inevitably impose arbitrary restrictions on an individual's human rights in contravention of the Helsinki Accords and OSCE standards. The fact MIVILUDES will refrain from providing the information to the general public – Mr. Fenech has publicly stated that making the list public would "stigmatize" religious groups - does not make it acceptable. Rather, the potential for

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<sup>2</sup> See, e.g. MIVILUDES will not publish a "reference list" of sects, NOUVELOBS.COM, 30.07.2009

tyranny and oppression is even greater. Keeping the list hidden from public view means there can be no transparency and accountability. Restrictions on human rights will be done in the dark of night, without public knowledge or scrutiny. Moreover, leaking of the list to advance discrimination against targeted faiths is inevitable.

### **Improper State Support and Financing of Religious Hate Groups**

The Union of Associations for the Defense of the Family and Individual (UNADFI) and the Centre Against Mental Manipulation (CCMM) are umbrella organizations for anti-religious extremist groups in France. This deceptively-named UNADFI has a history of defaming minority faiths and breaking families apart, at times by violent means. One of the only reasons UNADFI (whose name is often shortened to ADFI) even exists today is because it performs a propaganda function for France's high level anti-religious extremists.

UNADFI and CCMM receive substantial financial support from the French government to promote religious discrimination in France. A third anti-religious group, FECRIS, receives substantial funds from the French government to promote religious intolerance throughout Europe. National, regional, and local government entities administrations provide more than 90% of the budget for these groups. These organizations use these funds to incite religious hatred and fuel religious intolerance against specific groups through completely biased "awareness sessions," conferences and incendiary statements in the media. France thus funds these groups to systematically defame minority religions and engage in the very activities France is forbidden to do under international human rights law, which mandates religious neutrality and the promotion of religious pluralism. That is why these subsidies violate the law and should cease.

Indeed, these organizations enjoy such abysmal private sector support that they could not *exist at all* without public subsidies. In 2000, for example, ADFI received over 1,000,000 Euros from the Ministry of Justice and 8 other ministries. Yet, it received only approximately 12,000 Euros in membership fees and non-government donations. There obviously is no public support for these organizations (which is further evidenced by the dearth of complaints filed against the religions). ADFI uses this funding to mount propaganda campaigns, to solicit legal complaints against religious minorities, and work with their attorneys to prosecute these complaints in tandem with the office of the prosecutor to a chorus of media derision aimed at the targeted minority.

The close working relationship between the Ministry of Justice and ADFI became even more intimate in 2001, when the Ministry signed an agreement with ADFI. Under Article 3 of that agreement, "UNADFI will receive from the Minister of Justice a subsidy amounting to 200,000 francs." In exchange, ADFI is committed to assisting the Ministry by "implementing all the means necessary to the realization of the objective in Article 1." Article 1 requires that ADFI incite criminal complaints against religious minorities.

ADFI reported in its newsletter that "the importance of this circular for UNADFI and ADFI has to be underlined..." and that "UNADFI is pleased to hear about the nomination in each delegation, direction and department of the Minister of a correspondent in charge of sectarian problems."

The government continues to designate UNADFI as an association of public utility (*Association d'Utilité Publique*) to publicly subsidize ADFI's campaign of religious intolerance through propaganda based on false and derogatory data targeting minority faiths and to provide a means for it to be a civil party against "sects". In 2004, the French government granted 110,000 Euros to ADFI in a letter signed by the Prime Minister. Thus, the government sponsors and subsidizes ADFI's orchestrated campaign against a plethora of minority religions it designates by *fiat* as "sects".

Yet, the very concept of fighting "destructive sects", which constitutes ADFI's mandate, is anathema to international human rights standards as it attempts to make an arbitrary distinction between religions described as "good" and religions described as "bad". Based on the public subsidies and laws allowing it to intervene in trials, ADFI has a vested monetary interest in "fighting" religious groups designated as "sects". Its position is purely biased – as a policy it refuses to meet with targeted groups and instead it specializes in providing one-sided and uniformly negative information. . As an executive leader of a branch of UNADFI, Gerard Toussaint, declared on a local radio program in Pau, which was quoted in *La République* in June 2001, "*It is part of ADFI's policy to never enter in direct contact with the groups we are fighting against.*"

Such discrimination is incompatible with the duty of the state to remain neutral and impartial with respect to religions and with the policy of true religious pluralism.

Conscious of the fact that it may not so blatantly discriminate against certain religions consistent with the UN Bill of Rights, France has instead provided private anti-religious groups with the funds and the authority to discriminate against chosen religious denominations. But what France may not do directly under international human rights law it may not do indirectly through a private group. ADFI is nothing more and nothing less than the government's agent in the "fight against sects", and therefore any acts taken by ADFI must be attributable to the government and fall under the jurisdiction of the International Covenant on Civil and Political Rights and other relevant UN instruments.

It is through ADFI and CCMM that extremists have been able to impose their policies on the government and their propaganda attempting to marginalize minority faiths on the public. Yet without substantial government monetary subsidies, ADFI and CCMM would wither away through lack of interest and support from the public.

In September 2001, an individual who planted a bomb at the Church of Scientology's premises in the town of Anger was convicted and sentenced. Fortunately, the bomb never exploded. The man, who stated that he got his information only from public sources (such as the media and promotion from

these anti-religious groups) stated in court that *"I was convinced that the cults ... are a threat for freedom, and I considered that almost any means was justified to fight against these organizations."* This underscores the influence that extremist statements made by these anti-religious groups and like-minded politicians can have.

### **"Awareness" Sessions for Judges and Prosecutors against the Practices of Targeted Religions**

Starting in 1996, training and "awareness" programs for the police, state prosecutors, judges of instruction and sitting judges were initiated<sup>3</sup>.

The 2005 Guide for Public Agents on Sectarian Deviations notes that each year the National School for Magistrates (Ecole Nationale de la Magistrature) organizes a one-week seminar on sects for prosecutors, judges, police officers, and government officials from the youth and sports ministry, national education, judicial protection of youth, general direction of competition and consumer offices. Up to 140 trainees take part in this course. The anti-sect magistrate at DACG<sup>4</sup> runs these seminars together with an official at the Labor Ministry.

Along with the Circulars, these seminars and awareness programs improperly prejudice attendees against targeted faiths by providing biased stereotypes and unscientific information, and thus clearly violate human rights standards. Belgian officials have also lectured and participated in these seminars on "sects."

Based on documents released under the Freedom of Information law, the presentations on the targeted religions have been biased. The seminars delivered to the judges have included specific briefings on Scientology, Jehovah's Witnesses and other targeted groups, with information provided by UNADFI and CCMM, and without any possibility of contradiction, debate or rebuttal by the concerned groups. As part of the documents distributed to the attending judges, press articles hostile to these groups were provided, as evidenced by the list of documents attached to the programs of the seminars.

The positive jurisprudence and official recognitions regarding these groups has been completely ignored. Only a few negative court decisions were provided, and decisions from higher judicial authorities directly contradicting those decisions were also not discussed. Objective and scientific information regarding these groups was not included – neither objective scholars nor experts in the field of religion were

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<sup>3</sup> "State prosecutors" and "judges" stand for the French term *magistrats*, which have a different meaning than the English term "magistrate". In the French system, *magistrat* refers to state officials who administer justice and who have their decisions enforced. This term includes both state prosecutors and judges. In France, the distinction between state prosecutors and judges is conveyed by the use of *debout* and *assis* – the prosecutor is a *magistrat debout* and the judge a *magistrat assis*.

<sup>4</sup> *Direction des Affaires Criminelles et des Grâces*: Office of Criminal Affairs and Pardon at the Ministry of Justice



included in the program, exposing the program as an attempt to prejudice the judiciary against minority religious organizations.

Mr Fenech, in his Report to the Prime Minister, recommended that the education of Magistrates on "sectarian drifts" be extended. Recommendation 10 of the Report focused on "develop[ing] the continued education of Magistrates" in this matter.

In particular, The Report recommended that Magistrates in charge of decentralized education at the Appeal Courts should include training on "sectarian drifts".

Asked about its objectives for 2009 on "sectarian drifts", the Ministry of Justice answered that it intended followed this recommendation (letter to Mr. Fenech, 6 March 2009, page 147 of the Report):

***To develop continued education of Magistrates at a decentralized level***

*This request which you formulated during an executive committee of operational guidance of 26 November 2008 catches up with a project implemented by the Office of Criminal Affairs and Pardon and the National School of Magistrates.*

*To this end, the National School of Magistrates has proposed training sessions to the Magistrates in charge of the education of Magistrates at the Appeal Courts for the year 2009.*

*They will complement the continued education session organized at the National School of Magistrates and lead by the person in charge of sectarian drifts at the Office of Criminal Affairs and Pardon, which will take place from 30 November to 2 December 2009."*

This objective was reaffirmed on 8 August 2009 in an answer of the Ministry of Justice to a written question of an MP. This training will be delivered to prosecutors and judges.

Such "awareness" programs for court officials have been condemned by the United Nations Human Rights Committee. In its *Concluding Observations of the Human Rights Committee: Germany. 18/11/96 (CCPR/C/79/Add.73)*, the Human Rights Committee recommended, in strikingly similar circumstances, that Germany discontinue the holding of "sensitizing sessions for judges against the practices of certain designated sects". Otherwise, the right to a fair trial is destroyed for religious minorities.

These programs operate to prejudge entire groups, thereby infringing the right of the minorities to be presumed innocent, and contravene the principle of equality of arms since these minorities are not in a position where they can contradict the biased information given to the judges.

## **Recommendations**

1. The dissolution of the MIVILUDES and its replacement by an Observatory of neutral and impartial sociologists and experts, and
2. The intervention of the OSCE to facilitate dialog between the authorities and minority religions or belief groups.

## **Conclusion**

International and legal standards mandate that religious minorities be treated in conformance with the principles of pluralism, non-discrimination and equality. These standards also mandate a spirit of tolerance towards minority faiths and a responsibility on the part of the State to create dialogue and take action where discrimination occurs. Yet, MIVILUDES and its President have advocated policies and repressive measures that completely contravene fundamental human rights, including the Helsinki Accords.

Likewise, what France cannot do directly under human rights law, it cannot do indirectly by aiding and abetting religious hate groups. As long as France subsidizes, encourages and supports private groups to stigmatize minority faiths and promote religious discrimination in France, the right to religious freedom in France is in peril.